

Land Development Regulations
Chapter 3-9.. Zoning
Article III. Special Regulations

Sec.3-9-69. Communication Towers

Sec. 3-9-71.1. Communication towers.

~~(a) (1) Permit required. Personal wireless communication towers may be permitted by right or special exception in all zoning districts (as designated in the zoning district use regulations) except environmentally sensitive or resource conservation subject to the requirements of this section. Towers over two hundred (200) feet in height other than personal wireless communication towers may be permitted by right or special exception only in the agricultural general (AG) or agricultural estates (AE) zoning districts, or in any commercial or industrial zoning districts, or in environmentally sensitive (ES) or resource conservation (RC) districts only if such tower meets the exceptions for placement of such tower in an ES or RC district set forth in section 3-9-71.1(a)(2). No tower shall be increased in height unless said increase is approved as a special exception or is otherwise permitted under this section. No new tower erected after the effective date of this section shall exceed fifty (50) feet, or the maximum height of a structure permitted in a given district whichever is higher, unless first approved as a special exception. The provisions of this subsection (a)(1) and subsection (a)(2) shall not apply to the following, provided such do not exceed the federal obstruction standards set forth in 14 CFR part 77:~~

- ~~a. Noncommercial freestanding and structure-mounted "receive only" antennas which receive direct broadcast satellite service or video programming services via multi-point distribution services which are three (3) meters or less in diameter;~~
- ~~b. Amateur radio antennas and towers subject to accessory use standards as set forth in section 3-9-62.1 and modified by section 3-9-76;~~
- ~~c. An antenna or tower used as an accessory use to emergency or essential services;~~
- ~~d. Temporary towers associated with a special event may be permitted for a limited period of time by the county as part of the event;~~
- ~~e. Temporary towers necessary to aid in post disaster relief efforts;~~
- ~~f. Equipment which is not fixed and ordinarily moves. Such a facility is typically the end user's equipment, such as a wireless telephone;~~
- ~~g. Telecommunication equipment on the premises of a telecommunication customer for the use of the occupants of the premises; or~~
- ~~h. Towers of less than two hundred (200) feet located in the agriculture (AG), industrial light (IL) or industrial general (IG) zoning districts where the base of the tower is located five hundred (500) feet or more from a residential district boundary line.~~

~~(2) Prohibited locations. No tower shall be erected on any property with a land use designation as preservation or conservation land (or similar designation), or on any property designated for preservation through a conservation easement. Also notwithstanding anything to the contrary contained herein, except for a tower replacing an existing tower greater than one thousand (1,000) feet in height with the new tower also exceeding one thousand (1,000) feet in height, and when such replacement is reasonably required to comply with a federal, state or local statute, ordinance, rule or regulation, no tower shall be erected on any property where the land use designation is preservation or conservation or the zoning designation is environmentally sensitive or resource conservation. Any replacement tower which falls into the exception created in the preceding sentence, and which is granted a special exception, shall be sited on property under the same ownership and control of the existing tower to be replaced. Such replacement tower and the existing tower may coexist for up to two (2) years from the date of the completion of the replacement tower. In the event the regulation requiring the replacement tower is a Federal Communications Commission ("FCC") requirement that a broadcast tower~~

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change from analog to digital broadcasting, then the replacement and existing towers may coexist for up to two (2) years from the date of completion of the replacement tower or for up to one (1) year from the date the FCC allows the termination of the existing analog signal, whichever is longer, in order to allow the reasonable conversion to the replacement tower and its digital signal, to avoid disruption in service, and to allow economic and reasonably efficient dismantling of the existing tower. The timing and procedure for construction, conversion and dismantling of the towers may be addressed and be provided as conditions of the special exception considerations for the replacement tower. In addition, notwithstanding anything to the contrary contained herein, no tower shall be erected on any property containing a rare vegetation community including, but not limited to, forested wetlands, tropical hardwood hammock, sandhill, or xeric oak scrub, if the construction, erection, or maintenance of the proposed tower would cause the destruction of all or a portion of the rare vegetation community. The location restrictions contained in the provisions of this section (a)(2) shall not apply to the exceptions listed in sections (a)(1)a. through (a)(1)h. above

(3) ~~Permit holder information.~~ As a requirement for any existing permit holder or as a condition of a permit issued subsequent to the adoption hereof, a holder of a permit for a tower must provide the county zoning official with the name, address and telephone number of a contact person or persons who can be reached at any time to address or repair any problems with the tower; the permit holder (or its successor in interest) must promptly update the contact person information in the event of any changes; and the permit holder (or its successor in interest) must post and maintain the contact person information at the tower site where it can be easily read. Any holder of an existing permit shall have thirty (30) days from the adoption hereof to provide and post the required information. Failure to comply with the requirement to provide and post the contact person information shall be a violation of this section.

(b) ~~Special exception application.~~ Applications for special exceptions shall be processed in accordance with section 3-9-7 of the Charlotte County zoning code. Applications shall include:

- (1) ~~Special exception application including all specified supporting documentation; and~~
- (2) ~~Copies of the following letters and all responses. The applicant shall send a certified letter, return receipt requested, to other entities owning or using non-exempt communication towers in Charlotte County inquiring whether said entities have a need to co-locate antennas or have tower space available for co-location of antennas. All responses, those received within thirty (30) days of mailing, shall be submitted to staff for inclusion in the special exception file prior to the public hearing. The community development department shall maintain a list of towers which shall be considered the minimum contact list; and~~
- (3) ~~A statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future wireless service providers, including the co-location capacity. Towers may be designed for additional antennas to be added at a later time and, if the design will allow the accommodation of additional antennas without additional cost, towers shall be built to accommodate additional antennas; and~~
- (4) ~~The applicant's geographic search area as set forth by engineering report and the existing towers or suitable alternate support structures within such geographic search area. If the applicant is not a service provider, the applicant must submit a letter from a service provider indicating their intent to use the tower. The geographic search area and other relevant data will be based, at minimum, on the service provider's need; and~~
- (5) ~~The type of tower or supporting structure; and~~
- (6) ~~The height of the tower including antennas above ground and above MSL; and~~
- (7) ~~Latitude and longitude of the site; and~~

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- ~~(8) Distances in feet from the proposed tower location on the lot to each property line, and to the nearest single or multiple-family dwelling unit, any school building, and any emergency evacuation route up to the distance equal to twice the height of the proposed tower; and~~
- ~~(9) A tower two hundred (200) feet or more in height, or which exceeds the federal obstruction standards set forth in 14 CFR part 77, must include applicant's notice of proposed construction or alteration and the FAA response thereto, if available at the time of application, or, if not, prior to the public hearing but if the FAA response is not available for the public hearing, the hearing may be continued at the request of staff or the BZA, and no continuance fee will be chargeable to applicant; and~~
- ~~(10) Where a tower exceeds the federal obstruction standards set forth in 14 CFR part 77, whether or not the FAA determines it to be a hazard to air navigation, a height extension permit (permit) must be obtained from the Charlotte County Board of Zoning Appeals, as hereinafter set forth, before the special exception may be granted, unless the FAA, FDOT, and the executive director of the Charlotte County Development Authority submit in writing, or waive comment, that such tower is determined not to be a hazard to air navigation, using the appropriate federal, state or local criteria found in section 3-9-71.1(d). A special exception shall not be approved unless the applicant submits both documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation.~~
- ~~(c) *Special exception standards.* In addition to the standards of approval for a special exception in section 3-9-7(f), the applicant must demonstrate that no existing tower or alternate support structure within the applicant's geographic search area is reasonably available to support the applicant's antenna. The applicant must demonstrate that the existing towers or alternate support structures located within the geographic area required to meet the applicant's engineering requirements:~~
- ~~(1) Are not of sufficient height to meet the applicant's engineering requirements; or~~
- ~~(2) Do not have sufficient structural strength to support the applicant's proposed antenna and related equipment; or~~
- ~~(3) Do not have sufficient space to allow applicant's antenna and related equipment to function effectively and reasonably in parity with other similar equipment; or~~
- ~~(4) Are unavailable for lease under a reasonable leasing agreement; or~~
- ~~(5) Would result in electromagnetic interference with or by the antenna; or~~
- ~~(6) Have other limiting factors, including adverse economic reasons, that render the existing tower or alternative support structure unsuitable. Costs over the life of the applicable lease in excess of the cost of permitting and constructing a new tower shall be presumed to create an adverse economic reason.~~
- ~~(d) *Height extension permit.* Where a structure exceeds the federal obstruction standards set forth in 14 CFR part 77, the Charlotte County Board of Zoning Appeals may grant a height extension permit (permit) for such proposed development. Such permit shall be processed in a similar manner to section 3-9-6.1 of the Charlotte County Zoning Ordinance. The permit shall be processed concurrently with the special exception and shall require no additional fee beyond that of the special exception. A permit may be granted by the board of zoning appeals if it determines that a literal enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the permit approval would not be contrary to the public interest (i.e. the development can be accommodated in navigable airspace without adverse impact to the county's public use airports or aviation operations) but would do substantial justice and be in accordance with the intent of chapter 333, Florida Statutes, and provided that:~~

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~~(1) A condition to be attached to the permit approval to require that the approved structure is marked and lighted to indicate to aircraft pilots the presence of an obstruction in accordance with the standards of FAA Advisory Circular Number 70/7460-1J, as amended. Where such marking or lighting is required, such requirement shall be satisfied prior to the issuance of a certificate of occupancy (C.O.) for the structure.~~

~~(2) Consideration shall be given to:~~

~~a. The nature of the terrain and height of existing structures.~~

~~b. Public and private interests and investments.~~

~~c. The character of flying operations and planned development of airports. Affected airports will be considered as having those facilities which are shown on the airport master plan, or an airport layout plan submitted to the FAA airport district office.~~

~~d. FAA designated federal airways.~~

~~e. Whether construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.~~

~~f. Technological advances.~~

~~g. The safety of persons on the ground and in the air.~~

~~h. Land use density.~~

~~i. The safe and efficient use of navigable airspace.~~

~~j. The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdiction's comprehensive plans, and all other known proposed structures in the area.~~

~~k. FAA determinations and an aeronautical evaluation (may consist of the evaluation conducted by or for the FAA).~~

~~l. FDOT comments and recommendations, including FDOT findings relating to F.S. section 333.025 standards and guidelines or the waiver thereof.~~

~~m. Comments and recommendations from local airport authorities.~~

~~n. Other testimony and findings of aviation operations and safety experts.~~

~~In addition to the notice of proposed construction or alteration, at the time of filing the application, the applicant shall forward to the Florida Department of Transportation (FDOT) by certified mail, return receipt requested, a copy of the application. The FDOT shall have forty five (45) days from the receipt of the application to comment and to provide its comments or waiver of that right to the applicant and the board of zoning appeals. If FDOT fails to provide its comments within forty-five (45) days of receipt of the application, its right to comment is waived. The board of zoning appeals may proceed with its consideration of the application only upon the receipt of FDOT's comments or waiver of that right as demonstrated by the filing of a copy of the certified mail return receipt with the board showing that the time frame has been exceeded. The applicant may provide, as appropriate, a response to the listed criteria and considerations as set forth herein.~~

~~(e) Location.~~

~~(1) All tower supports and peripheral anchors shall be located entirely within the boundaries of the property and in no case less than five (5) feet from property lines. Notwithstanding the foregoing, the following setbacks and height requirements shall also apply to the erection of any communication tower:~~

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- 1 a. ~~For a tower located in any residential zoning district, the base of the tower shall be set~~
2 ~~back from all property lines a distance equal to or greater than two (2) times the height of~~
3 ~~the tower.~~
- 4 b. ~~For a tower located in any zoning district other than a residential zoning district, the base of~~
5 ~~the tower shall be set back from the boundary of any residential zoning district a distance~~
6 ~~equal to or greater than two (2) times the height of the tower.~~
- 7 c. ~~For a tower located in any zoning district, the base of the tower shall be set back from any~~
8 ~~existing dwelling unit a distance equal to or greater than two (2) times the height of the~~
9 ~~tower.~~
- 10 d. ~~For a tower located in any zoning district, the base of the tower shall be set back from any~~
11 ~~existing school building a distance to or greater than two (2) times the height of the tower.~~
- 12 e. ~~For a tower located in any zoning district, the base of the tower shall be set back from any~~
13 ~~emergency evacuation route a distance equal to or greater than the height of the tower,~~
14 ~~measured from the applicable right-of-way line.~~
- 15 f. ~~For a tower located in any zoning district, the base of the tower shall be set back from the~~
16 ~~mean high water line of the water of Charlotte Harbor, the Gulf of Mexico, Lemon Bay,~~
17 ~~Gasparilla Sound, Placida Harbor, Red Fish Cove, the Myakka River or the Peace River a~~
18 ~~distance of one-half (1/2) mile.~~
- 19 g. ~~For a tower located in any zoning district, the tower shall meet the then current setbacks~~
20 ~~adopted by the Florida Fish and Wildlife Conservation Commission ("FWC") from any~~
21 ~~nesting locations for birds listed as protected species in the FWC's Official Lists of~~
22 ~~Endangered and Potentially Endangered Fauna and Flora in Florida or its successor.~~
- 23 (2) ~~All towers shall comply with regulations for height restrictions in airport zones of the Federal~~
24 ~~Aviation Administration, Federal Communication Commission and the Florida Department of~~
25 ~~Transportation, Division of Aeronautics, or a municipal or other airport authority qualified by law~~
26 ~~to establish airport hazard zoning regulations.~~
- 27 (3) ~~Placement of more than one (1) tower on a land site is preferred and encouraged, and may be~~
28 ~~permitted provided, however, that all setbacks, design, height and landscape requirements are~~
29 ~~met as to each tower and site. All new towers shall be engineered so that in case of collapse, all~~
30 ~~parts of the structure will fall within the site. Structures may be located as close to each other as~~
31 ~~technically feasible provided tower failure characteristics of the towers on the site will not likely~~
32 ~~result in multiple tower failures in the event that one (1) tower fails, or will not otherwise present~~
33 ~~an unacceptable risk to any other tower on the site.~~
- 34 (4) ~~A tower may be located on a lot containing other principal uses. The tower, and the necessary~~
35 ~~equipment, accessory building and structures, may be located with an area smaller than the~~
36 ~~minimum lot size of the applicable zoning district, provided that the specified setbacks and~~
37 ~~height restrictions are met, and the lot complies with the applicable minimum lot size for the~~
38 ~~zoning district, or is a legal nonconforming lot. The necessary support equipment shall meet the~~
39 ~~setbacks of a principal use. The tower shall meet the setbacks of a principal use, or the~~
40 ~~setbacks and height requirements contained in subsection 3-9-71.1(e)(1), whichever are~~
41 ~~greater.~~
- 42 (5) ~~To foster co location of antennas and minimize adverse aesthetic impacts associated with the~~
43 ~~proliferation of towers, the co location of antennas by more than one (1) carrier on existing or~~
44 ~~new towers or alternate support structures will be considered a permitted use and will only~~
45 ~~require application and approval of a building permit.~~

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- ~~(6) Co-locating on an existing tower or alternate support structure which must be modified or reconstructed to accommodate the co-location shall be considered a permitted use and may be modified or rebuilt to a taller height, not to exceed forty (40) feet over the tower's existing height provided:~~
- ~~a. It does not exceed the federal obstruction standards set forth in 14 CFR part 77.~~
- ~~b. The total of all such modifications or reconstruction shall not exceed forty (40) feet over the original tower height.~~
- ~~(7) Alternate support structures to which an antenna may be attached include, but are not limited to, commercial, industrial, office and industrial buildings, multifamily residential buildings, water tanks, utility and light poles, poles at publicly owned facilities, athletic facilities or other structures not originally designed as antenna mounts.~~
- ~~Rooftop antenna structures and antennas are permitted up to a height of twenty (20) feet above the maximum roof line for the zoning district in which the tower is located. Any antenna structure, tower or antenna that exceeds twenty (20) feet or exceeds the federal obstruction standards set forth in 14 CFR part 77, must be approved as a special exception. The tower, structure or antenna shall be an unobtrusive color and where feasible, the design elements of the building (i.e., parapet wall, screen enclosures, other mechanical equipment) shall be used to screen such.~~
- ~~(f) *Setback of accessory buildings.* All accessory building and structures shall conform to the setback requirements for the district in which the use is located.~~
- ~~(g) *Access and fencing.* A fence or wall not less than eight (8) feet in height from finished grade shall be provided around each tower, or site, or combination thereof. Access to the tower(s) shall be through a locked gate. Structure-mounted facilities shall be located and designed to be accessible to authorized personnel only.~~
- ~~(h) *Signs.* If high voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall or, on roof-mounted antennas, within ten (10) feet of the antenna, shall display in large bold letters the following: "HIGH VOLTAGE DANGER". A sign shall also be erected and maintained which indicates the name(s), address(es), and telephone number(s) of contact person(s) who can be reached at any time to address or repair any problems with the tower, as required in subsection 3-9-71.1(a). Towers and antennas shall not have signs, banners, or other forms of commercial advertisement attached or otherwise affixed to the tower or antenna.~~
- ~~(i) *Lighting.* A communication tower shall not be artificially lighted except as required by federal, state or local laws or regulations or as a condition attached to the special exception.~~
- ~~(j) *Landscaping.* The base of the tower and any accessory buildings shall be landscaped and screened from adjacent properties and public roads in accordance with the provisions for landscape buffers and screening contained in article XXII, chapter 3-5, as the same may be amended.~~
- ~~(k) *Abandonment.* If a tower ceases to operate, in that there is no operational antenna located thereon for a period of one (1) year, then the tower will be deemed to be abandoned. The owner/operator of the abandoned tower shall be given one hundred eighty (180) days after being provided with written notice of the determination of abandonment, to either reactivate or dismantle and remove the tower. If the tower is not removed or reactivated, the county may obtain authorization from a court of competent jurisdiction to remove the tower and necessary support equipment and, after removal, shall place a lien on the subject property for all direct and indirect costs incurred in the removal and disposal of the tower and support equipment plus court costs and attorney fees. Where the county determines that physical factors or the non-use constitutes an unsafe condition under the building code, such building code provisions and process shall supersede any time elements set forth herein.~~

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~~(l) Open space/habitat reservation. The development of the tower site shall be subject to the open space/habitat reservation requirements contained in chapter 3-5, article XVI of the Code.~~

~~(Ord. No. 89-47, § 6, 6-22-89; Ord. No. 98-053, § 1, 7-14-98; Ord. No. 2000-029, §§ 1-7, 8-22-00; Ord. No. 2001-031, § 1(w), 6-12-01; Ord. No. 2001-058, § 1, 9-25-01)~~

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(a) Exempt Telecommunication Facilities.

(1) The following telecommunication facilities are exempt from the provisions of this Section, provided they do not exceed 50 feet in height or the maximum height allowed by the zoning district, whichever is greater.

(2) Non-commercial freestanding or structure-mounted "receive only" antennas three meters or less in diameter that receive direct broadcast services.

(3) Amateur radio antennas and towers.

(4) An antenna or tower used as an accessory use to emergency services.

(5) Temporary towers associated with a special event may be permitted for a limited period of time by the county as part of the event.

(6) Temporary towers necessary to aid in post-disaster relief efforts.

(b) Co-location Requirements.

(1) All proposed telecommunication facilities shall co-locate with existing facilities wherever possible or the applicant must demonstrate that no existing telecommunication facility or alternate support structure within the applicant's geographic search area is reasonably available to support the applicant's facility. The applicant must demonstrate that the existing facilities or alternate support structures located within the geographic area meet one of the following criteria:

a. They are not of sufficient height to meet the applicant's engineering requirements.

b. They do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

c. They do not have sufficient space to allow the applicant's antenna and related equipment to function effectively and reasonably in parity with other similar equipment.

d. They are unavailable for lease under a reasonable leasing agreement.

e. They would result in electromagnetic interference with or by the antenna.

f. They have other limiting factors, including adverse economic reasons, that render an existing facility or alternate support structure unsuitable. Costs over the life of the applicable lease in excess of the cost of permitting and constructing a new facility shall be presumed to create an adverse economic reason.

(2) Co-locating on an existing tower or alternate support structure which must be modified or reconstructed to accommodate the co-location shall be considered a permitted use and may be modified or rebuilt to a taller height, not to exceed 40 feet over the tower's existing

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height provided it does not exceed the Federal obstruction standards set forth in 14 CFR part 77.

- (3) Alternate support structures to which an antenna may be attached include, but are not limited to, commercial, office, and industrial buildings, multifamily residential buildings, mixed use buildings, water tanks, utility and light poles, poles at publicly-owned facilities, athletic facilities, or other structures not originally designed as antenna mounts.

(c) Additional Application Requirements.

In addition to the standard application requirements, the following information shall be submitted upon application for any telecommunication facility:

- (1) Special Exception application including all specified supporting documentation.
- (2) Copies of letters to and all responses from other entities owning or using non-exempt communication towers, inquiring whether said entities have a need to co-locate antennas or have tower space available for co-location of antennas. All letters shall be sent certified mail, return receipt requested. The County shall maintain a list of telecommunication service providers which shall be considered the minimum contact list.
- (3) A statement from the Florida Fish and Wildlife Conservation Commission (FWC) stating that the proposed tower meets all required setbacks from any nesting locations for birds listed as protected species in the FWC's Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida or its successor.
- (4) For proposed facilities taller than 200 feet, a statement from the FAA stating that the proposed tower is determined not to be a hazard to air navigation.
- (5) The applicant's geographic search area as set forth by engineering report and the existing towers or suitable alternate support structures within such geographic search area. If the applicant is not a service provider, the applicant must submit a letter from a service provider indicating their intent to use the tower. The geographic search area and other relevant data will be based, at minimum, on the service provider's need.
- (6) The type of tower or supporting structure.
- (7) The height of the tower including antennas above ground and above MSL.

(d) Conditions of Approval.

(1) General Requirements

- a. Telecommunication facilities shall not have any form of advertisement attached or otherwise affixed.
- b. Telecommunication facilities shall not be illuminated except as required by Federal, State, or local laws or regulations or as a condition attached to a Special Exception.
- c. Development of a telecommunication facility site shall be subject to the Habitat Preservation provisions of this Code.
- d. No telecommunication facility shall be constructed on any property containing a rare vegetation community including, but not limited to, forested wetlands, tropical hardwood

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1 hammock, sandhill, or xeric oak scrub if the construction or maintenance of the
2 proposed facility would cause the destruction of any portion of the rare vegetation
3 community.

4 e. The owner of any telecommunication facility must provide the County with the name,
5 address, and telephone number of a contact person or persons to address or repair
6 any problems with the tower. This information must be posted prominently at the
7 facility and updated within 30 days in the event of any changes. Failure to comply with
8 the requirement to provide and post the contact person information shall be a violation
9 of this Section.

10 f. If high voltage is necessary for the operation of the facility, signs displaying in large
11 bold letters "HIGH VOLTAGE – DANGER" shall be located every 20 feet and attached
12 to the fence or wall. In the case of structure-mounted antennas, signs shall be placed
13 within ten feet of the antenna.

14 g. A fence or wall at least eight feet in height shall be provided around each facility
15 located on the ground. Access to the facility shall be through a locked gate. Structure-
16 mounted facilities shall be located and designed to be accessible to authorized
17 personnel only.

18 h. Except where prohibited by a Zoning Overlay District or other provisions of this Code,
19 structure-mounted antennas are permitted up to a height of 20 feet above the existing
20 height of the structure. The antenna shall be an unobtrusive color and where feasible
21 the design elements of the building such as parapet walls, screen enclosures, or
22 mechanical equipment shall screen it.

23 i. Any tower located in a residential zoning district shall be required to be a monopole.

24 (2) Setback Requirements

25 a. All telecommunications facilities shall meet the following setbacks:

26 (1) Any new tower, equipment enclosures and ancillary structures shall be set back
27 from all interior and rear lot lines a minimum of ten (10) feet and shall meet the
28 minimum setback requirements for the zoning district where it is located for the
29 front lot line, except that where the minimum setback distance for the tower from
30 any residentially zoned property line, public right-of-way, emergency evacuation
31 route, existing school, or existing residential dwelling unit, is less than the height
32 of the proposed tower, the minimum setback distance shall be increased to the
33 height of the proposed tower, unless the tower will be constructed using
34 "breakpoint" design technology, in which case the minimum setback distance
35 shall be equal to 110% of the distance from the top of the tower to the
36 "breakpoint" level of the tower. For example, on a one hundred (100) foot tall
37 monopole tower with a breakpoint at eighty (80) feet, the minimum setback
38 distance would be 22 feet (110% of twenty (20) feet, the distance from the top of
39 the tower to the "breakpoint").

40 (2) Certification by a professional engineer licensed by the State of Florida of the
41 "breakpoint" design and the design's fall radius must be provided together with
42 the other information required herein by the applicant.

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b. All towers shall comply with regulations for height restrictions in airport zones of the Federal Aviation Administration, Federal Communication Commission and the Florida Department of Transportation, Division of Aeronautics, or a municipal or other airport authority qualified by law to establish airport hazard zoning regulations.

c. All towers shall be engineered so that in case of collapse, all parts of the structure will fall within the site.

d. Multiple towers on a site must be located at least as far from each other as the height of the taller tower.

(e) Replacement.

(1) Any replacement telecommunications tower seeking to increase the height of the existing tower shall be required to modify the existing Special Exception.

(2) Any replacement telecommunications tower without increase in height shall follow the existing Special Exception.

(3) Any replacement of the existing tower which did not receive a Special Exception approval shall be required to obtain a Special Exception.

(4) The replacement telecommunications tower shall be located on the same parcel or lot as the original tower.

(5) If the existing telecommunications facility is nonconforming, the applicant demonstrates that the proposed replacement tower will mitigate the nonconformity. This demonstration might be in the form of a change in design (for example from a lattice-style to a monopole style tower or a reduction in height) or in providing additional setbacks or buffers than those that apply to the existing tower.

(6) The existing telecommunications facility being replaced is removed within one hundred twenty (120) days after completion of construction of the replacement telecommunications facility.

(7) Upon administrative approval, the replacement telecommunications facility will be deemed a legally conforming use.

(f) Abandonment.

If a telecommunication facility ceases to receive and transmit signals for a period of one year, then the facility will be deemed to be abandoned. The owner/operator of the abandoned facility shall be given 180 days after being provided with written notice of the determination of abandonment, to either reactivate or dismantle and remove the facility. If the facility is not removed or reactivated, the County may obtain authorization from a court of competent jurisdiction to remove the facility and necessary support equipment and, after removal, shall place a lien on the subject property for all direct and indirect costs incurred in the removal and disposal of the facility and support equipment plus court costs and attorney fees. Where the County determines that physical factors or the non-use constitutes an unsafe condition under the building code, such building code provisions and process shall supersede any time elements set forth.